

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11-1302

September Term 2011

EPA-47FR45210

EPA-76FR48208

Filed On: December 30, 2011

EME Homer City Generation, L.P.,

Petitioner

v.

Environmental Protection Agency,

Respondent

American Lung Association, et al.,
Intervenors

Consolidated with 11-1315, 11-1323, 11-1329,
11-1338, 11-1340, 11-1350, 11-1357,
11-1358, 11-1359, 11-1360, 11-1361,
11-1362, 11-1363, 11-1364, 11-1365,
11-1366, 11-1367, 11-1368, 11-1369,
11-1371, 11-1372, 11-1373, 11-1374,
11-1375, 11-1376, 11-1377, 11-1378,
11-1379, 11-1380, 11-1381, 11-1382,
11-1383, 11-1384, 11-1385, 11-1386,
11-1387, 11-1388, 11-1389, 11-1390,
11-1391, 11-1392, 11-1393, 11-1394, 11-1395

BEFORE: Rogers, Griffith, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the motions to stay, the responses thereto, the replies, the Rule 28(j) letters, and the responses thereto; the motions for leave to exceed the page limit for replies; the motion to dismiss the State of Texas' petition and the opposition thereto; the motion to govern [1341711], the responses thereto, and the reply; the motion to release the decision on stay motions in a way that avoids unnecessary disruption in trading markets, and the response thereto, it is

ORDERED that the motion regarding advance notice of the release of the court's decision be denied. It is

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FURTHER ORDERED that the motions for leave to exceed the page limits for replies be granted. The Clerk is directed to file the lodged replies. It is

FURTHER ORDERED that the motion to dismiss the State of Texas' petition be referred to the merits panel to which these petitions for review are assigned. The parties are directed to address in their briefs the issues presented in the motion to dismiss rather than incorporate those arguments by reference. It is

FURTHER ORDERED that the motions to stay be granted. The Environmental Protection Agency's "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals; Final Rule," 76 Fed. Reg. 48,208 (August 8, 2011), is stayed pending the court's resolution of these petitions for review. Petitioners have satisfied the standards required for a stay pending court review. See Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843 (D.C. Cir. 1977); D.C. Circuit Handbook of Practice and Internal Procedures 32 (2010). Respondent is expected to continue administering the Clean Air Interstate Rule pending the court's resolution of these petitions for review. It is

FURTHER ORDERED that the motion to govern be granted in part. The request to designate the case "complex" is granted. Petitioners are directed to identify lead or liaison counsel for appropriate groups of petitioners at the time briefing proposals are due. It is

FURTHER ORDERED, on the court's own motion, that the parties submit by January 17, 2012, proposed formats and schedules for the briefing of these cases that would allow the cases to be heard by April 2012. The parties are strongly urged to submit a joint proposal and are reminded that the court looks with extreme disfavor on repetitious submissions and will, where appropriate, require a joint brief of aligned parties with total words not to exceed the standard allotment for a single brief. The parties are directed to provide detailed justifications for any request to file separate briefs or to exceed in the aggregate the standard word allotment. Requests to exceed the standard word allotment must specify the word allotment necessary for each issue.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Lynda M. Flippin
Deputy Clerk